

REMARKS**Response to Claim Objections**

Claims 51 and 53 were objected to by the Examiner because of the following informalities: There is insufficient antecedent basis for "the bendable legs" in line 11 of claim 51. There is insufficient antecedent basis for "said hinged linkage" in lines 2 – 3 of claim 53. Claims 51 and 53 have been amended and are currently in patentable form.

Response to Claim Rejections Under 35 USC §102

Claims 51, 53, 61-64, 69, 70 and 74 were rejected by the Examiner under 35 USC §102(e) as being anticipated by Yoon (U.S. Pat. No. 6,059,734). Claims 51, 61 and 68 as amended are directed to a device with a mechanical fixation element which remains proximal to the distal end in its expanded configuration. The Yoon '734 reference teaches a device having a mechanical fixation element (148) disposed proximal to the distal end when in a retracted position. In an expanded position, however, the mechanical fixation element extends distal of the distal tip. As a result, the Yoon '734 reference fails to teach or suggest all features of the present invention therefore it cannot anticipate the present device.

Claims 69 was rejected by the Examiner under 35 USC §102(b) as being anticipated by Yoon (U.S. Pat. No. 5,423,770). Claim 69 as amended includes a tissue separation element disposed on the elongated shaft proximal to the distal end for cutting tissue surrounding the elongated shaft and which is longitudinally aligned. The Yoon '770 reference cannot anticipate the present invention because it does not teach or suggest a device having a separating element which is located proximal to the distal end.

Response to Claim Rejections Under 35 USC §103

Claims 65-68 are rejected by the Examiner under 35 USC §103(a) as being unpatentable to Yoon (U.S. Pat. No. 5,423,770) in view of Eggers et al. (U.S. Pat. No. 5,947,964). Claim 65 as amended includes a tissue separation element disposed on the elongated shaft proximal to the distal end cutting tissue surrounding the elongated shaft and which is longitudinally aligned. As discussed above, the Yoon '770 patent does not teach or suggest a device having a separating element which is located proximal to the distal end for cutting tissue surrounding the elongated shaft and which is longitudinally aligned and therefore Yoon cannot anticipate the device. The secondary reference cited by the Examiner also fails to disclose this feature. The combination of these references fail to teach or suggest all of the features found in the amended claims, so these references do not render the claimed invention obvious.

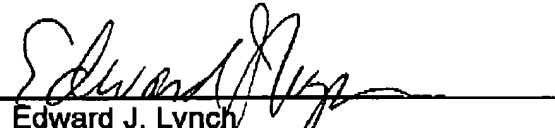
Claims 71-73 are rejected by the Examiner under 35 USC §103(a) as being unpatentable to Yoon (U.S. Pat. No. 6,059,734) as applied to claim 70 above, and further in view of Eggers et al. (U.S. Pat. No. 5,947,964). As discussed above claim 69 as amended is patentable. Because claims 71-73 depend upon a patentable claim, they are also allowable.

Conclusion:

Applicants believe the presently pending claims define patentable subject matter. Further consideration pursuant to the concurrently filed RCE and an early allowance are respectfully requested.

Respectfully submitted,

By: _____


Edward J. Lynch
Registration No. 24,422
Attorney for Applicants

DUANE MORRIS LLP
One Market
Spear Tower, Ste. 2000
San Francisco, CA 94105
Telephone: (415) 957-3000
Facsimile: (415) 957-3001
Direct Dial: (415) 957-3067